

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

HTC CORPORATION, et al.,

Defendants.

Civil Action No. 6:13-cv-507

**JURY TRIAL DEMANDED
(Consolidated Lead Case)**

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

ZTE CORPORATION, et al.

Defendants.

Civil Action No. 6:13-cv-511

JURY TRIAL DEMANDED

JOINT MOTION TO DISMISS WITHOUT PREJUDICE

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants ZTE Corporation, ZTE (USA), Inc., ZTE Solutions, Inc., HTC Corporation, HTC America Inc., AT&T Mobility LLC, Cellco Partnership d/b/a Verizon Wireless, T-Mobile USA, Inc., and T-Mobile US, Inc. (collectively, “Defendants”) move jointly to dismiss without prejudice constituent Civil Action Nos. 6:13-cv-507 and 6:13-cv-511 (collectively, the “507 and 511 cases”). Defendants Sprint Solutions, Inc., Sprint Spectrum L.P., and Boost Mobile, LLC do not oppose.

Recent discovery revealed a dispute among the parties to this Joint Motion concerning CCE’s standing to file the 507 and 511 cases on June 25, 2013. CCE maintains that it took

ownership of all right, title and interest in U.S. Patent No. 8,055,820 (the “’820 patent”) on January 25, 2013. Defendants to the 507 and 511 cases maintain that CCE did not take ownership of the ’820 patent until at least July 15, 2013.¹

The parties to this Joint Motion seek to resolve the question of CCE’s standing to bring the 507 and 511 cases without involving the Court unnecessarily in disputed motion practice. Thus, the parties seek dismissal of the 507 and 511 cases without prejudice. Upon dismissal, CCE shall amend, with Defendants’ agreement, its complaints in recently-filed Civil Action Nos. 6:16-cv-475 and 6:16-cv-476 (the “475 and 476 cases”)² to incorporate the allegations as to the ’820 patent and U.S. Patent No. 7,941,174 from the 507 and 511 cases. The parties agree that the dismissals of the 507 and 511 cases do not operate as an adjudication on the merits under Fed. R. Civ. P. 41(a)(1)(B).

Once CCE amends the complaints as described above, the parties agree: (i) to cooperate to avoid duplicative discovery relating to the 507 and 511 cases, including restrictions on supplemental expert opinions as to the ’820 patent, while permitting experts to address issues unique to newly-accused products; and (ii) that discovery taken and provided in the 507 and 511 cases may be used in the 475 and 476 cases, as applicable.

The parties also agree to consent to Magistrate Judge Mitchell for all purposes in the 475 and 476 cases, including trial. Additionally, Defendants agree that they will not move to transfer the 475 and 476 cases to a different venue.

¹ CCE contends that constituent Civil Action No. 6:14-cv-251 (the “251 case”) involving Defendants Apple Inc., AT&T Mobility LLC, Cellco Partnership d/b/a Verizon Wireless, Sprint Solutions, Inc., Sprint Spectrum L.P., Boost Mobile, LLC, T-Mobile USA, Inc., and T-Mobile US, Inc. is not affected by the noted standing issue or, by extension, this Joint Motion. The 251 case was filed on April 7, 2014.

² The 475 and 476 cases already include, among other things, allegations of infringement under the ’820 patent concerning products not at issue in the 507 and 511 cases.

For the foregoing reasons, the parties to this Joint Motion submit that good cause exists for granting the requested dismissals, without prejudice. Doing so resolves a significant, disputed issue in the most efficient way possible and without involving the Court in unnecessary motion practice. A proposed Order accomplishing the dismissals of the 507 and 511 cases, without prejudice, is submitted with this Joint Motion for the Court's consideration and entry.

Dated: June 24, 2016

Respectfully submitted,

/s/ Edward R. Nelson III

Edward R. Nelson III
ed@nelbum.com
Texas State Bar No. 00797142
Ryan P. Griffin
ryan@nelbum.com
Texas State Bar No. 24053687
Thomas C. Cecil
tom@nelbum.com
Texas State Bar No. 24069489
NELSON BUMGARDNER PC
3131 West 7th Street, Suite 300
Fort Worth, Texas 76107
Phone: (817) 377-9111
Fax: (817) 377-3485

T. John Ward, Jr.
Texas State Bar No. 00794818
J. Wesley Hill
Texas State Bar No. 24032294
Claire Abernathy Henry
Texas State Bar No. 24053063
WARD & SMITH LAW FIRM
P.O. Box 1231
1127 Judson Rd. Ste. 220
Longview, Texas 75606-1231
(903) 757-6400
(903) 757-2323 (fax)
jw@jwfirm.com
wh@wsfirm.com
claire@wsfirm.com

/s/ Nicole S. Cunningham

Nicole S. Cunningham
CA State Bar No. 234390
Callie M. Bjurstrom
CA State Bar No. 137816
Steve A. Moore
CA State Bar No. 232114
PILLSBURY WINTHROP SHAW PITTMAN LLP
501 West Broadway, Suite 1100
San Diego, California 92101
(619) 544-3119
(619) 236-1995 (fax)
Nicole.Cunningham@PillsburyLaw.com
Callie.Bjurstrom@PillsburyLaw.com
Steve.Moore@PillsburyLaw.com

**ATTORNEYS FOR ZTE CORPORATION,
ZTE (USA), INC., ZTE SOLUTIONS, INC.,
HTC CORPORATION AND HTC AMERICA
INC.**

<p>ATTORNEYS FOR CELLULAR COMMUNICATIONS EQUIPMENT LLC</p>	
<p><u>/s/ Douglas J. Dixon</u> John C. Hueston (Pro Hac Vice) Douglas J. Dixon (Pro Hac Vice) HUESTON HENNIGAN LLP 620 Newport Center Dr., Suite 1300 Newport Beach, CA 92660 Telephone: (949) 226-6741 DDixon@hueston.com JHueston@hueston.com</p> <p>Alexander C.D. Giza (Admitted E.D. Tex.) Zachary T. Elsea (Pro Hac Vice) HUESTON HENNIGAN LLP 523 West 6th Street, Suite 400 Los Angeles, CA 90014 Telephone: (213) 788-4340 agiza@hueston.com</p> <p>Melissa R. Smith State Bar No. 24001351 GILLAM & SMITH, LLP 303 S. Washington Ave. Marshall, TX 75670 Telephone: (903) 934-8450 Facsimile: (903) 934-9257 melissa@gillamsmithlaw.com</p> <p>ATTORNEYS FOR T-MOBILE USA, INC. AND T-MOBILE US, INC.</p>	<p><u>/s/ Christopher W. Kennerly</u> Christopher W. Kennerly TX Bar No. 00795077 chriskennerly@paulhastings.com Jonas P. Herrell CA Bar No. 279075 jonasherrell@paulhastings.com PAUL HASTINGS LLP 1117 S. California Ave. Palo Alto, CA 94304-1106 Telephone: (650) 320-1800 Facsimile: (650) 320-1900</p> <p>Jeffrey D. Comeau CA Bar No. 259679 jeffreycomeau@paulhastings.com PAUL HASTINGS LLP 4747 Executive Drive Twelfth Floor San Diego, CA 92121-3114 Telephone: (858) 458-3000 Facsimile: (858) 458-3005</p> <p>Trey Yarbrough TX Bar No. 22133500 trey@yw-lawfirm.com YARBROUGH WILCOX, PLLC 100 E. Ferguson St., Suite 1015 Tyler, Texas 75702 Telephone (903) 595-3111 Facsimile (903) 595-019</p> <p>ATTORNEYS FOR AT&T MOBILITY LLC</p>
<p><u>/s/ Sarah J. Kalemeris</u> Michael E. Jones State Bar No. 10929400 mikejones@potterminton.com</p>	

Patrick C. Clutter, IV
State Bar No. 24036374
patrickclutter@potterminton.com
Potter Minton, P.C.
110 N. College Ave., Suite 500
Tyler, Texas 75702
Tel: (903) 597-8311
Fax: (903) 593-0846

Thomas M. Dunham
D.C. Bar No. 448407
tdunham@winston.com
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, D.C. 20006-3817
Tel: (202) 282-5000
Fax: (202) 282-5100

Sarah J. Kalemeris
Illinois State Bar No. 6303644
skalemeris@winston.com
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601
Tel: (312) 558-5600
Fax: (312) 558-5700

**ATTORNEYS FOR DEFENDANT
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS**

CERTIFICATE OF CONFERENCE

In accordance with Local Rule CV-7(h), the undersigned certifies that counsel for CCE conferred with counsel for all Defendants to the affected Civil Actions. The Parties making this motion are in agreement as to the relief sought and, therefore, jointly bring it. The non-moving Defendants, namely Sprint Solutions, Inc., Sprint Spectrum L.P., and Boost Mobile, LLC, do not oppose the motion.

/s/ Edward R. Nelson III

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on all parties of record on June 24, 2016 via the Court's CM/ECF system.

/s/ Edward R. Nelson III